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EXAMINER

WILLETT, S

ART UNIT

PAPER NUMBER

2756

DATE MAILED:

09/26/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/151,579

Applicant(s)

Gubbl et al.

Examiner

Stephan Willett

Group Art Unit

2756

☒ Responsive to communication(s) filed on Sep 12, 1900

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-34 is/are pending in the applicat

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-34 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

**DETAILED ACTION**

***Drawings***

1. The drawings are objected to because of the informalities noted on the attached PTO 948. Correction is required.

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 7, 12, 16 and 27 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The network device listening to a network wireless communication which the device is not a current component is unclear.

5.

***Claim Rejections - 35 USC § 103***

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was

made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 7, 12, 16 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. with Patent Number 5,909,183 in view of Altvater with Patent Number 5,889,771.

9. Regarding claim 1, 16, 30 and 32 Borgstahl teaches an appliance control mechanism. Borgstahl teaches *listening, at a first network device not a current component of the computer network, to a communication channel communicatively coupling two or more components of the computer network* as "process includes a query task during which peer determines whether a setup connection is being attempted", col. 11, lines 30-38. Borgstahl teaches *transmitting, from the first network device, a connection request to a controller of the computer network within a designated time slot of the communication channel* as "to monitor wireless communication link to determine whether a signal compatible with a protocol being used by network", col. 6, lines 59-60. Borgstahl teaches the invention in the above claim(s) except for explicitly teaching *a connection request*. In that Borgstahl operates to generate service requests via an appliance control, the artisan would have looked to the multiplexing arts for details of implementing a connection request. In that art, Altvater, a related I/O interface, teaches a "selector circuit selects a frequency channel of the basic network over which the transmission data are to be sent out" in order to

transmit data. Altwater specifically teaches “these data packet blocks then pass to a transmitter which sends them out via an antenna terminal, provided the selected frequency channel is currently unoccupied by the basic network”, col. 6, lines 66-67. A connection request is made at a designated time when the channel is not occupied. Further, Altwater suggests that a “test circuit analyzes the received information and reports on an ‘unoccupied’ line”, col. 6, lines 13-14 will result from implementing the connection system. The motivation to incorporate a connection request at a certain time insures that communications demands are met. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the connection request as taught in Altwater into the appliance control described in Borgstahl because Borgstahl operates with communication control requests and Altwater suggests that communication requests can be used in the appliance control environment. Therefore, by the above rational, the above claims are rejected.

10. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mosebrook et al. with Patent Number 5,905,442 in view of Barrett et al. with Patent Number 5,699,532.

11. Regarding claim 1, 16, 30 and 32 Mosebrook teaches an appliance control mechanism. Mosebrook teaches *listening, at a first network device not a current component of the computer network, to a communication channel communicatively coupling two or more components of the computer network* as “a master control device may be installed having a plurality of controls and status indicators which control various control devices” and “the master device includes an antenna for receiving and transmitting radio frequency signals and plugs into a wall outlet”, col. 11, lines 30-38. Mosebrook teaches *transmitting, from the first network device, a connection request to a controller of the computer network within a designated time slot of the*

*communication channel* as "the assigned dimmers then transmit their status in their assigned time slots", col. 24, lines 55-57. Mosebrook teaches the invention in the above claim(s) except for explicitly teaching *a connection request*. In that Mosebrook operates to generate service requests via an appliance control, the artisan would have looked to the multiplexing arts for details of implementing a connection request. In that art, Barrett, a related I/O interface, teaches an "path activate and deactivate process in Fig. 3" in order to "actually controls the exchange of signals which logically connect the allocated transmission groups to the user applications" col. 7, lines 42-44. Barrett specifically teaches "a user application such as user application in Fig. 4 communicates with multi-path channel interface such as interface in Fig. 4 by means of messages directing the MPC to allocate, activate, and deactivate multi-path channel groups" at col. 8, lines 49-53 and "each of the local sub-channels is validated for availability", col. 10, lines 17-18. A connection request is taught. Further, Barrett suggests that "negotiation of system parameters", col. 6, lines 13-14 will result from implementing the connection system. The motivation to incorporate a connection request insures that communications demands are met. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the connection request as taught in Barrett into the appliance control described in Mosebrook because Mosebrook operates with communication control requests and Barrett suggests that communication requests can be used in the appliance control environment. Therefore, by the above rational, the above claims are rejected.

12. Regarding claims 2, 17, 29 and 31 Mosebrook teaches *confirming the connection request by transmitting the connection request from the controller to first network device periodically until a response from the first network device is received by the controller* as "the master then

sends a message .. the device, for example, a mater, then preferably waits for one to 4 random time slots ... the device thereafter resends the link claim”, col. 24, lines 10-15. Thus, the above claim limitations are obvious in view of the combination.

13. Regarding claims 3, 4, 6, 20, 33 and 34 Mosebrook teaches *sending, from the controller to the first network device, a connection agreements package including information regarding time slots within the communication channel to be used by the controller for transmitting information to the first network device and the connection agreement packet further includes information regarding time slots within the communication channel to be used by the first network device when transmitting information to the controller* as "the assignment bit map generated by the master might look as follows ... Slot No.”, col. 25, lines 45-52. Thus, the above claim limitations are obvious in view of the combination.

14. Regarding claims 5, Barrett teaches *information sent between the first network device and the server comprises packets and the connection agreement packet further includes information regarding the maximum number of bytes the first network device can send or expect to receive in each packet for each type of data included in a packet* as "it is necessary for the two stations to specify the maximum buffer size available for reception of data blocks”, col. 9, lines 54-56. Thus, the above claim limitations are obvious in view of the combination.

15. Regarding claims 7, 18, 27 and 28 Barrett teaches *determining, at a first network device not a current component of the computer network,, whether a communication channel used for communicatively coupling two or more components of the computer network is actively being utilized by the components of the computer network; and transmitting, from the first network device, a message within the communication channel at a time depending upon whether the*

*communication channel is actively being utilized or not* as "as noted above, these multi-path channel allocations merely verify that the requested transmission capabilities are available in the channel paths", col. 7, lines 39-42. Thus, the above claim limitations are obvious in view of the combination.

16. Regarding claims 7, Barrett teaches *determining, at a first network device, whether a communication channel used for communicatively coupling two or more components of the computer network is actively being utilized by the components of the computer network; and transmitting, from the first network device, a message within the communication channel at a time depending upon whether the communication channel is actively being utilized or not* as "as noted above, these multi-path channel allocations merely verify that the requested transmission capabilities are available in the channel paths", col. 7, lines 39-42. Thus, the above claim limitations are obvious in view of the combination.

17. Regarding claims 8, 9, 10 and 11, Barrett teaches *determining, at a first network device, whether a communication channel used for communicatively coupling two or more components of the computer network is actively being utilized by the components of the computer network; and transmitting, from the first network device, a message within the communication channel at a time depending upon whether the communication channel is actively being utilized or not* as "at the remote MPC interface, the XID-1 messages received on each of the sub-channels of the transmission group are compared to each other to determine if they are identical", col. 10, lines 39-42. Thus, the above claim limitations are obvious in view of the combination.

18. Regarding claims 12, 15, 25 and 26, Barrett teaches *negotiating bandwidth requirements within the communication channel with the first component, which is not a current component of*



*the computer network*, as "determining the size and frequency of the data transmission interface", col. 9, lines 61-63. Thus, the above claim limitations are obvious in view of the combination.

19. Regarding claims 13 and 19, Mosebrook teaches *negotiating comprises exchanging further connection request messages between the network controller and the first component to synchronize the first component to the network controller* as "the output of the full wave bridge is provided to a zero crossing detector which is used to synchronize the time slots", col. 29, lines 4-6. Thus, the above claim limitations are obvious in view of the combination.

20. Regarding claims 14 and 24, Barrett teaches *authenticating the first component by comparing a client identifier provided by the first component against a list of known clients prior to negotiating bandwidth requirements* as "the negotiation of system parameters and the provision of user-supplied system verification (security) fields (e.g. encrypted passwords)", col. 6, lines 13-14. Thus, the above claim limitations are obvious in view of the combination.

21. Regarding claims 15, Barrett teaches *negotiating bandwidth requirements comprises reallocating bandwidth within the communication channel among the one or more network components and the first component* as "such allocations merely select and ensure the availability of sub-channels of the size and directions requested", col. 11, lines 26-28. Thus, the above claim limitations are obvious in view of the combination.

22. Regarding claims 21, Barrett teaches *the connection agreement packet comprises a connection agreement command field that identifies the packet, a forward bandwidth field to specify the number of packets that the first network device can expect to receive from the controller, a reverse bandwidth field to specify the number of packets that the first network device may send to the controller, a field that specifies a preceding on-line network device and a*

*network on-line number* as shown in Figure 2. Thus, the above claim limitations are obvious in view of the combination.

23. Regarding claims 22 and 23, Mosebrook teaches *subclients* as "all control functions are accomplished by radio frequency signals between master control devices and lighting control devices", col. 11, lines 24-25. Thus, the above claim limitations are obvious in view of the combination.

### ***Response to Amendment***

24. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

25. Based on the new grounds for rejection the applicants arguments are moot. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

26. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

27. Applicant suggests Barrett "fails to discuss transmission of connection requests for components which are not current parts of such computer systems" in Paper No. 7, Page 4, lines 6-7. Based on the examiner's best understanding of the applicant's claimed invention, a listening device would be part of a network. In any event, an assigned time slot in Mosebrook could equally well be for new components. However, Barrett teaches "each of the local sub-channels is validated for availability", col. 10, lines 17-18 which would be equally applicable to wireless communications in Mosebrook et al. to enable a channel. In addition, if the device was installed

by the controller in Mosebrook this does not mean the component has been allocated a time slot in the channel if the channel activation protocol of Barrett is used. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

### *Conclusion*

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited.

29.. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

30. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-9731.

33. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw *SW*

September 21, 2000

  
MARK RINEHART  
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